App. E. IX-4

Previous References

1938.
(Lru)

File No. 26-38

Serial Nos. 1-4

Letter References.

p-21(E)

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. four

Part B for July 39

SUBJECT.

Appeal Petition of the Shimoga Land mortgage Cooperative Society against the orders of Registrar disqualifying the Society from voting etc

Sl 4) Do Secretary, Shimoga L.M. Cooperative Society Ltd

No D 590 Dt 18-7-39

WD 0418—GPB—22,500—29-8-36

States that Govt see no reason to interfere with the orders of the Regr

Sally 7/8/39

G. R. S. APP. F. III—1]

GENERAL AND REVENUE SECRETARIAT. 6831

(LM)

NOTES.

File No. 26-38

FILE HEADING

Appeal petition of the Shimoga Land Mortgage Co-operative Society against the order of the Registrar disqualifying the Society from voting

FROM

The President
The Shimoga Land Mortgage Society Ltd.

No. 543 Dated 18/5/37 Received 22/5/37

Diary No. 6831 Enclos. One Spare copies — Serial No. 1

BRIEF ABSTRACT OF LETTER

Appeals against the orders of the Registrar in respect of the Society being disqualified from voting or standing as a candidate for directorship of the Central Bank on account the failure of the Hon. Secretary to pay his arrears to the Society

NOTES AND ORDERS.

1) A copy letter to the Registrar of Co. calling for his remarks on the petition with connected records if any. is invited for appeal or other orders

17/6/37

2) Issued

17/6.

2 Ps. I 10722 of 23.6.37 To the Asst. R.C.S. Bgs. for remarks the petition of 18.5.37 above.

Notes—First Sheet

WD 0283—GPB—3,750—25-1-38

2 6831 J 138

LM File No. 26 of 1938. | General and Revenue Secretariat

Letter No 58 dated 1-7-39 from the Registrar of Coop Societies forwarding the records with his remarks thereon

3) It is seen from the records that Syed Mohaiyadin who borrowed a sum of Rs 2700/- from the Bank has not paid even a pie towards the instalments due and the L.M. Society has paid the kandayam and has purchased the lands mortgaged to them for arrears of Land Revenue. The total amount due from the debtor to the Society will amount to nearly over Rs 3700/- with interest at 8% upto the date of realisation according to the decision given in 1936. The President of the L.M. Society pleads that because the borrower has defaulted to pay the dues, the Society which is simply the agent, should not be penalised. But the Registrar who was Conciliator is of opinion that, as the Society gets the document executed by the borrower in its favour and in turn executes the document in favour of the Bank for the amount lent, the society holds itself responsible for the repayment of the dues to the Bank, whether the borrower pays the dues to the Society or not and any default by the Society to the Bank will disable it from the privileges of membership. The Registrar says that, whether this instalment or not, the borrower pays, the Society has to make good the amount due to the Bank from its own funds or other sources.

Jea/P

4) From a copy of the Report of the working of the Central L.M. Bank it is seen that the defaulting L.M. Society has at the end of the

Serial No.

B

the year 1937-38 a paid up Capital of Rs 4160/- of which Rs 2200/- is invested in the Bank of Mysore, and a reserve fund of Rs 271/- loans outstanding to the extent of Rs 34152/- The Central L.M. Bank has given a loan of Rs 37000/- through this affiliated Society till the end of June 1938: It is clear therefrom that the Shimoga Society, which borrowed ~~loans~~ from the Central L.M. Bank, was utilising the amounts only on the loan applications accepted by the Bank and was practically an intermediary in the transaction through it got the bond executed in its favour and itself executed another bond in favour of the Bank, (No stamp or registration fee are levied on the transaction) and made a little profit in the difference of rate of interest between borrowing and lending just to cover its working expenses and make a little profit. Whether the Society, ~~is deficient of~~ was capable of paying the instalment due to the Central Land Mortgage Bank, through its own funds from its own funds or otherwise, through its own members deserves investigation, seems a point worth consideration. To find this out it is necessary to get information about the State of finances of the Society as on 30-6-38 A map

NOTE—Contn. Sheet.

WD 0514—GPB—30,000—2-9-38

4 6831 5 138

4 File No. 26 of 193 8 | General and Revenue Secretariat

letter ~~Copy~~ to the Registrar calling for a report of the working of the Land Mortgage Society and ascertaining also the details of the loan of Rs 1937-38 ~~is to be for~~ to why the society failed to pay the Bank from its own funds is to be for ~~some~~

7/7/39

5) It is not necessary to know whether the Shimoga Society has enough funds to pay the instalment.

6) The issue is whether the Shimoga Society is required to pay up the instalment when one of its members defaults.

7) The President of the Society contends that the Society is only an agent of the Central Mortgage Bank and such an agent should not be held responsible for the collection of the instalments and pay in time to the Central Bank (Principal).

8) This view of the President is not correct. The Central Bank advances the loan to the Primary Society (Agent in the words of the President)

Serial No.

4) The loan is advanced on the assurance of the Primary Society as to the bonafides of the applicant. It is on this assurance the loan is advanced. On its recommendation, the loan is advanced. The Rule on this ~~point~~ question of recovery of the instalments due is quite definite. The Primary Society alone is responsible. This primary Society has in the present case purchased the mortgaged property and as such liable for the liabilities of the defaulter member.

11) Apart from this position, the Primary Society alone is responsible for the instalment and the ~~loan~~ discharge of the loan taken from the Central Mortgage Bank. The Primary Society is a member of the Central Mortgage Bank and any

NOTE—Contn. Sheet.

6

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File No. 26 of 193 8. | General and Revenue Secretariat. | Serial No.

default to pay up the instalment in time places the Society in the position of a defaulter.

11) The Registrar's view appears to be correct and as a defaulter the Shimoga Society cannot take part in the General Election to the Directorate of the Central Mortgage Bank for ordinary Ganlikeys.

8/7/38

12) According to the bye-laws. Primary Land Mortgage Societies cannot become members of the Central Land Mortgage Bank & the latter cannot sanction loans only to the former in the area in which it has jurisdiction & not directly to any person residing within such an area. In these circumstances, a Primary Society becomes a defaulter, if any of its members, to whom loans have been sanctioned (Engaged) from the funds of the Central Bank, fail

GENERAL SECRETARIAT
8 JULY 1938
174

Appeal of Shimoga L.M. Society.

138

General and Revenue Secretariat — L.M. File No. 26 of 1938. — [App. F. III-2

Serial No.	
	to pay the instalments within the period prescribed. The portion taken up by the President of the Central Land Mortgage Bank & the Registrar appears to be correct. A reply may be given to the Society in question that for we see no reason to interfere. (2nd Member)
	Off Lrd for approval.
4	No. D 590 dt. 18-7-39. To the President, Shimoga L.M.C.S. Ltd., Shimoga. States that Govt. see no reason to interfere with the orders of the Registrar.
	No. D 591 dt. 18-7-39. To the Registrar C.S. Bangalore.

SECOND MEMBER OF COUNCIL 11 JULY 1939 No. 416.

TYPING SECTION 15 JULY 1939 GEN. & REV. SECTT.

GENERAL SECRETARIAT DEVELOPMENT BRANCH

NOTE—Contn. Sheet.

L.Dr 26-38-1 L.Dr C5 N 38-78

WHILE REPLYING PLEASE REFER TO NO. 543

THE SHIMOGA
LAND MORTGAGE CO-OPERATIVE SOCIETY LTD.,

Encls. one

Dated 18th May 1939.

From

THE PRESIDENT,
SHIMOGA LAND MORTGAGE CO-OPERATIVE SOCIETY LTD.,
SHIMOGA.

GEN. & REVENUE SECRETARIAT 6831 22 MAY 1939 TELEGRAPH BRANCH

To

The Secretary,-
to the Government of H.H. the Maharaja of Mysore,
Local Self Government Dept.,
BANGALORE.

Sir,

The appeal herewith forwarded was intended to be submitted to Government through the Registrar of Co-operative Societies and it was accordingly submitted to the Registrar on 22-4-39 for transmission to Government.

But the Registrar has returned it and it reached this Office only yesterday through the Inspector of Co-operative Societies to whom it seems to have been sent from the Office of the Registrar.

In these circumstances I have to submit the appeal direct and solicit the favour of orders of Government in the matter.

I beg to be excused for this trouble.

I beg to remain,
Sir,

Your most obedient servant,

K. Narayana Aiyangar
President.

WHILE REPLYING PLEASE REFER TO NO. 491

Encls. .....

THE SHIMOGA LAND MORTGAGE CO-OPERATIVE SOCIETY LTD.,

Office of the Registrar of Co-operative Societies
23 APR. 1939
No. 6915

22nd April 1939.

From

THE PRESIDENT,
SHIMOGA LAND MORTGAGE CO-OPERATIVE SOCIETY LTD.,
SHIMOGA.

To

The Secretary,
to the Government of H.H. the Maharaja of Mysore,
Local Self Government Dept.,
BANGALORE.

Through

The Registrar of Co-operative Societies
in Mysore, BANGALORE

Sir,

The Shimoga Land Mortgage Co-operative Society, Shimoga, in its meeting held on the 28th ultimo resolved to place before the Government for final orders a certain difference of opinion that has arisen between the Central Bank and this Society in connection with some defaults which occurred in the case of loan issued to one Syed Mohadeen of Veerapur.

The Land Mortgage Co-operative Society acts as an agent of the Central Bank in the issue of loans to applicants. In all cases of applications for loan made to the Society, the latter sends the application to the Central Bank with its recommendation. Upon receipt of such applications the Central Bank excercises its own discretion in the matter and decides whether it will grant the loan or not in each particular case. The recommendation of the Society is not invariably accepted but the discretion of the Central Bank supervenes in all cases.

When upon the Sanction of the Central Bank the loan is actually

C1.

actually issued to the applicant through the Society, all the deeds executed by the applicant and all the title deeds produced by him ~~xx~~ are lodged with the Central Bank. In fact in all cases the mortgaged bonds taken by the Societyfrom the borrowers are to be transferred over to the Central Bank as per Rule 5 of Clause 2 of Special Rules relating to the Land Mortgage Bank and Primary Land Mortgage Societies.

It is therefore an agency relationship that is contemplated to exist between the Central Bank and the Primary Society. If anything else was intnded there was no need for a recommendation to be made by the Primary Society to the Central Bank and for the latter to discreminate.

In the case of one Syed Mohadeen to whom a loan was issued according to the rules, the debtor defaulted in paying even the first instalment. He even defaulted in paying the kandayam on the lands. The Society paid the kandayam in two years but the defaulter enjoyed the produce. The Society then filed a suit against the defaulter before the Registrar and obtained a decree. The decree is under execution in the Revenue side.

In spite of these diligent steps taken by the society, the Central Bank treats the society as a defaulter because Syed Mohadeen did not pay up the instalments. The Central Bank ignores the steps that the Society has taken in obtaining the decree against him and putting it to execution . After decree the debtor defaulted again in paying the kandayam and brought the lands forming part of the security, to revenue sale. The Society purchased the said part of the security to avoid the ~~xxxxxxxxx~~ repetition of what had taken place in previous years Viz., Society paying the kandayam and the defaulter taking the crops. Arrangements have been made by the Society for keeping the lands under cultivation, so that the kandayam at least may be realised till proper offers come for the purchase of the lands by others.

12

In spite of the aforesaid circumstances, the Central Bank treated this Society as a defaulter because the instalment due under the bond executed by Syed Mohadeen was not paid It has ignored that the bond has now merged into a decree. It is the decree that has now to be executed and the other portions of the security have only to be sold out.

One of the penalties that is involved in this treatment of the Society by the Bank as a defaulter is that the society cannot vote or stand for election to the Directorate of the Central Bank.

The attention of the Central Bank was invited to this anamolous situation arising from the penalty so imposed on the society for no fault of the society. But the Central Bank declined to reconsider the position and insisted on styling the society and treating it as a defaulter and calling upon the society to pay the dues of Syed Mohadeen from out of the Society's own share capital.

To call upon the society to pay the dues of debtors from out of its share capital is highly detrimental to the well being of the society. No liability of such nature would be leviable on a society legally.

So the society referred the matter to the Registrar and invited his esteemed interference in the matter. But the Registrar in his letter No.10274 C.S.dated 25-2-39 has adopted the same views as are entertained by the Central Bank and has suggested a payment from out of the Society's own funds.

It is an agency that exists between the Central Bank and primary societies. An agent would not be responsible to the principal from out of the agent's own funds. The profit and loss is due entirely to the principal. Negligences if any or other tortious act of the agent would give rise to an independent cause of action. But so long as the agent has proceeded bonafide and has excercised all the diligences that could be reasonably expected it

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it would be unjust to call upon the society to pay a debtor's dues on pain of its being put up as a defaulter and deprived of its vote or candidature to the directorate of the Bank.

As the learned Registrar also has not apreceiated the view point of this society, the society resolved in its committe meeting as aforesaid to approach the Government in the matter and respectfully invite its decision.

In these circumstances, I respectfully invite final orders of the Government in the matter. I submit that this society should not be treated as a defaulter and deprived of the rights that would be otherwise exist, for defaults of debtors for which the primary society is not at fault.

I beg to remain,
Sir,

Your most obedient servant,

K. Narayana Aiyangar
President.

Appendix F G—1]

SUBJECT.....

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Section 107

File No. 26-38

Serial No. 2

Diary No. of letter replied to .....

No. D 10722/Genl

To The Registrar Co.

Sir-

General and Revenue Secretariat

( )

the *193*

I am directed to forward herewith for remarks with connected papers if any a petition dated the 18th May 1939 from the President Shimoga Land Mortgage Cooperative Society Ltd Shimoga appealing against your ~~letter~~ order in the matter of disqualifying the Society from voting etc due to the failure of one Syed Mohadeen of Veerapur to pay his dues to the Society. The letter may kindly be sent with your reply. I have etc

Date of issue 23/6/39

Signed by Mr Hussain Ally

List of enclosures.....

Copied by 21/6

Examined by.....

for Secretary

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat 15

Dated, Bangalore, 21st June 1939

No. D 10722/AH 26-38-2 23

From

The General Secretary to the Government of His Highness the Maharaja of Mysore.

To

The Registrar of Co-operative Societies in Mysore,
Bangalore.

Sir,

I am directed to forward herewith for remarks with connected papers if any, a petition dated the 18th May 1939 from the President, Shimoga Land Mortgage Co-operative Society, Ltd, Shimoga appealing against your orders in the matter of disqualifying the Society from voting etc, due to the failure of one Syed Mohadeen of Veerapur to pay his dues to the Society.

The letter may kindly be returned with your reply.

I have the honour to be,
Sir,
Your most obedient servant,

For General Secretary to Govt.

MK.

No. 58 C.S. Enc. 3 and a file of records.

Enc.

16

OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES IN MYSORE.

Bangalore, 1st July 1939.

From

L.M. 26-38-3.

M.Abdul Hukh, Esq., B.A.,
Registrar of Co-operative Societies in Mysore.

To

GENERAL & REVENUE SECRETARIAT. 138 JULY 1939 DEVELOPMENT BRANCH.

4 JULY 1939

Appaji Gowda, Esq., B.A. (Hons)
Secretary to Government, General Department,
Bangalore.

With reference to your letter No.D.10722/L.M.26-38-2 dated 21st/23rd June 1939 in the matter of the petition from the President, Shimoga Land-mortgage Co-operative Society, Shimoga, appealing against my orders regarding disqualifying the society from voting etc., in the General Meeting of the Mysore Central Co-operative Land-mortgage Bank, I have the honor to state that one Syed Mohiyuddin of Veerapur was financed by the Shimoga Land-mortgage Co-operative Society out of the funds obtained by it from the Central Co-operative Land-mortgage Bank. Though the loan records are scrutinised by the Central Land-mortgage Bank before sanction the society gets the document executed by the borrower in its favour and the society in its turn executes the document in favour of the Bank for the amount lent. That is the practice. In this case as the party became a defaulter the society filed an application under Section 60 before me and an order was passed directing the sale of the mortgaged properties for the realisation of the amount due by the party. The order was sent to the Deputy Commissioner, Shimoga District, in June 1936. But the amount due has not yet been realised. The Shimoga Land Mortgage Society contends that it should not be treated as a defaulter by the Land Mortgage Bank on account of the default made by this borrower. It was up to the society to have paid the instalments due to the Bank by it out of its own funds or from other sources. An extract from the proceedings of the Board of Directors of the Mysore Central Co-operative Land-mortgage Bank on the identical subject is herein enclosed. It will be seen therefrom that the Bank is also of the same opinion. The file of records relating to the case of Syed Mohiyuddin of Veerapur ending with this office

No.16/C.S. dated 1st July 1939 is herewith sent for the perusal of Government.

The enclosures received with the letter under reply are herewith returned.

I have the honour to be,
Sir,
Your most obedient servant,

Registrar.

18

Proceedings of the meeting of the Board of Directors of the Land Mortgage Bank,Ltd., Bangalore, held on Sunday the 18th June 1939.

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x x x x x

"5. Letter No.546 dated 22-5-1939 from the President,Shimoga Land Mortgage Co-operative Society,Ltd., to the President of the Bank, re: the responsibility of the society to the Bank in respect of the loans sanctioned to the society.

The letter was read. Mr.K.Krishna Rao wanted to know the position of the societies, whether they were independent bodies, or only the Agents of the Bank. The President said that the societies were affiliated societies functioning under the Mysore Co-operative Societies Act and Rules thereunder, and the Central Bank finances these societies, but before financing, the Bank should be satisfied about the security and other particulars in each case. He said that just as the members were responsible to the societies in respect of payment of loan instalments etc., the affiliated societies were responsible to the Bank, and they could not transfer their responsibility to the Bank.

x x x x x

****

"Extract "

L.S.1/7.

for Registrar.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

Dated, Bangalore, 18th July 1939.

No. A 590/L.M. 26-38-4

From

The General Secretary to the Government of His Highness the Maharaja of Mysore.

To

The President,
Shimoga Land Mortgage Co-operative Society, Ltd.,
Shimoga.

Sir,

With reference to your letter No.543 dated 18th May 1939 appealing against the orders of the Registrar of Co-operative Societies in the matter of treating the Society a defaulter to the Mysore Central Co-operative Landmortgage Bank, Ltd., I am directed to state that Government see no reason to interefere with the orders of the Registrar.

I have the honor to be,
Sir,
Your most obedient servant,

Sd/- J. Appaji Gowda.

General Secretary to Government

Memo No. A 591/

Copy of the above is forwarded, with compliments, to the Registrar of Co-operative Societies in Mysore for information.

The

SR/3

The records received with his letter are returned herewith.

By Order,

General Secretary to Government.

2C

Appendix F G—1]

SUBJECT.....

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Section 109

File No. 26-38

Serial No. 4

Diary No. of letter replied to .....

No. S-98

To The Provincial
Manager L.M. Co-operative Bank Ltd
Manager

General and Revenue Secretariat

( )

the *193* .

Date of issue 18.7.39

Signed by Asst S.K.

Sir

With reference to your letter No Nil 3
dated 18/5/39 appealing against
the order of the Registrar Co in the
matter of liquidating the Society a
defaulter to the Luyon Central
Coop
L.M. Bank Ltd. I am directed
to state that Govt ~~accepted~~ ~~the~~
~~letter~~ see no reason to interfere
with the order of the Registrar

I have etc

W Ickly
Secretary

List of enclosures.....

Copied by.....

Examined by..... 11/7/39

P.T.O